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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,884	09/29/2003	Kelly Shoemake	005242.00133	5371

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EXAMINER

MATZEK, MATTHEW D

ART UNIT PAPER NUMBER

1771

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,884

Applicant(s)

SHOEMAKE ET AL.

Examiner

Matthew D. Matzek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The previously applied rejections have been withdrawn as they failed to teach a fiber mat with a urea-formaldehyde resin modified with a protein in an amount of 0.1% to 10% by weight of resin and protein solids. Claims 1-20 are currently pending, but claims 1-6 and 14-20 have been withdrawn from prosecution.
2. In view of the Appeal Brief filed on 2/6/2006, PROSECUTION IS HEREBY REOPENED. As set forth below.
3. To avoid abandonment of the application, appellant must exercise one of the following two options:
 - (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
 - (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.
4. A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 7-9 and 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Belmares et al. (US 2003/0099850).

Belmares et al. teach the creation of a low formaldehyde emission binder based upon a formaldehyde-based resin that reduces sag and enhances strength (Abstract). Soy protein (formaldehyde scavenger) is added to the urea formaldehyde (UF) binder to control the formaldehyde emissions [0011]. The binder of Belmares et al. may be used to bind fiberglass [0015]. The effective range of the formaldehyde scavenger is from about 3% to about 40% based upon the weigh of the UF binder [0023].

Claim Rejections - 35 USC § 103

6. Claims 7-9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan et al. (US 6,384,116) in further view of Belmares et al. (US 2003/0099850).

a. Chan et al. teach the use of a binder composition comprising urea-formaldehyde modified with a water-soluble non-ionic amine oxide and optionally further modified with an anionic acrylic latex (Abstract). The applied invention is to be used for glass fiber mats and results in improved tensile strength of said mats (Abstract). The glass mats are to be used as a roofing product (col. 1, lines 31-36). Glass fiber mats are

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generally made by a wet-laid nonwoven process (col. 1, lines 32-40). Chan et al. are silent as to the use of a formaldehyde scavenger such as soy protein.

b. Belmares et al. teach the creation of a low formaldehyde emission binder based upon a formaldehyde-based resin that reduces sag and enhances strength (Abstract). Soy protein (formaldehyde scavenger) is added to the urea formaldehyde (UF) binder to control the formaldehyde emissions [0011]. The binder of Belmares et al. may be used to bind fiberglass [0015]. The effective range of the formaldehyde scavenger is from about 3% to about 40% based upon the weigh of the UF binder [0023].

c. Since Belmares et al. and Chan et al. are from the same field of endeavor, (i.e. glass fiber mats bound by formaldehyde-based resins) the purpose disclosed by Belmares et al. would have been recognized in the art of Chan et al.

d. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have modify the adhesive of Chan et al. with the formaldehyde scavenger of Belmares et al. The skilled artisan would have motivated by the desire to reduce the amount of formaldehyde emitted by the fibrous article [0019, Belmares et al.].

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belmares et al. (US 2003/0099850) as applied to claim 9 above, and further in view of Trocino (WO 01/59026).

Belmares et al. is silent as to the type of soy protein to be used in the applied invention.

a. Trocino discloses a vegetable protein-based adhesive composition comprising soy protein made from soy meal (soy flour) (Abstract). Example 1 teaches a binder formulation comprising soymeal and urea-formaldehyde.

b. Since Belmares et al. and Trocino are from the same field of endeavor (i.e. soy protein binders for use in the construction of fiberboard panels) the purpose disclosed by Trocino would have been recognized in the pertinent art of Belmares et al.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the adhesive composition of Belmares et al. with the soy flour of Trocino motivated by the fact that soy meal is low in cost and is readily available.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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